



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

3 Fort Wetherill Rd
Jamestown, RI 02835

401 423-1920
FAX 401 423-1925

Letter of Authorization – Sector Allocation Pilot Program

March 26, 2009

RE: Application for participation in the 2009 Sector Allocation Pilot Program

Dear Mr. Brown:

Your application for participation in the 2009 Sector Allocation Pilot Program has been reviewed by the Department of Environmental Management. It was deemed by the Department that the application was adequate pursuant to RI Marine Fisheries (RIMF) Regulation 7.7.11, with a few minor points of clarification. The points that need to be addressed are as follows:

1. The Sector will have to report landings and discards in a time frame no longer than 1 week, not monthly as stated in your contract. Further, a process will need to be set forth by which you transfer the required landings documents to the Division of Fish and Wildlife.
2. Please formally indicate to us in the form of a signed letter your designee for the Sector Manager.
3. Please expand your current roster document to include signatures, in addition to the already supplied names, of all participants, including any potential operator on each vessel.
4. One final point of clarification is regarding the summer period and proximity of fishing to the RI Coastline. RIMF Regulations Section 7.7.11-5(f) clearly states **"No vessel participating in the program shall fish commercially with gear that is capable of catching summer flounder, between June 1, 2009 and September 30, 2009 within one mile seaward of the southern Rhode Island coastline."** Your contract on the other hand makes statements about "targeting" summer flounder and some references to specific gear types, etc. The intent of your contract needs to be clarified with regard to this; this may be accomplished by contacting Mark Gibson at 783-8906.

Once the clarifying points as indicated above are met, the Sector may begin to fish under the guidelines of the Sector Allocation Pilot Program as set forth in RIMF Regulations 7.7.11 beginning **April 12, 2009**, the date at which the Winter 1 Summer Flounder Aggregate Program ends.

If you have any questions please feel free to call Mark Gibson at 783-8906.

Thank you.

Respectfully,

Mark Gibson
Acting Chief
Division of Fish and Wildlife

CC: Robert Ballou, Directors Office
Najih Lazar, Fish and Wildlife
April Valliere, Fish and Wildlife
Steve Hall, Law Enforcement
Kurt Blanchard, Law Enforcement
Gary powers, Legal Counsel

The Rhode Island Fluke Conservation Cooperative

Established 2008

April 3, 2009

Mark Gibson
Acting Chief
Division of Fish and Wildlife

Dear Mr. Gibson

Item 4 of your letter, dated March 26, 2009, requested that the, Sector, fishing agreement, be rectified with RIMF 7.7.11-5(f) as to be consistent with the rules that will govern the pilot program. The words, target and capable seem to have caused some concern. The language that emerged from DEM, surrounding this area and time did so from a source other than us. Although it is different than what I have suggested, written, submitted, spoken and conveyed repeatedly over the past three years, I do believe, upon review that captures the intent of the written fishing agreement well enough so that it (the agreement) can remain serviceable with only minor alterations.

Please allow me to clarify our intent beyond any further possible misinterpretation. The RIFCC does not now, nor have we ever, wished to target fluke in either area during that period of time. It is our intent to fish in this area, as we always have, during this time period, largely for squid and occasionally scup and other commercially available species. While fishing in this area at this time we will be contractually obligated to utilize gear that produces as small a by catch of fluke as is achievable. The squid fishery can represent as much as 50% of our catch value for the year and can be had in only a few short weeks. I have expressed this on numerous occasions throughout the process that has delivered us to this point.

The word capable has caused some anxiety within the sector as well. My investigation of the word "capable" has solidified my belief that it is appropriate when used in the context of the sector's intent and the relationship it has to RIMF 7.7.11(f) and is captured by our legal agreement quite efficiently.

The word is defined as that which is "competent", "qualified", "possessing sufficient ability", "having attributes required for performance", and "having general efficiency". I find that these words of definition lend themselves to our mission of heightened commercial selectivity very nicely.

We intend to deploy nets in this area, during these times that are by design and intent "not competent" fluke nets. The nets that we will be fishing here are "legally disqualified" from those that can target fluke, as they are made of small mesh, and as you know it is unlawful to target fluke with small mesh during the summer months, by federal vessels.

The nets that we will utilize do not possess "attributes that lend themselves to performance" in the fluke fishery nor will they "perform with deliberate efficiency" in the task of harvesting fluke.

Given these many definitions and examples, I feel that the language contained within our agreement is entirely consistent with RIMF 7.7.11(f) in spirit and function. Therefore, our internal operating directives and intent as well as federal limitations about fluke fishing all conspire to be a good fit with State law.

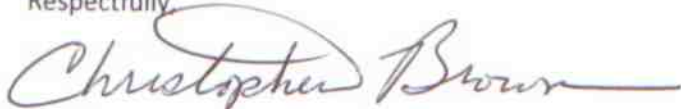
Nowhere, or at any time have we professed or aspired to absolute efficiency in our ability to avoid fluke when targeting other species or suggested it be a criteria for fishing in a general area. We have, repeatedly, throughout this lengthy process, expressed our willingness to continue to develop and use harvesting technology in conjunction with a higher ethical standard to produce the cleanest fisheries possible. Ours is a quest for sustainable fisheries, not fluke as some who remain fearful of our standards would point out.

I believe the language of our agreement, requiring the use of a specific net or sweep design is appropriate as it translates intent into a tangible, quantifiable, easily visible and therefore enforceable, fishing regulation. It is not possible to enforce intent; it is possible to enforce a gear type. I am very confident that we have captured this in our program and am looking forward to demonstrating the efficiency of our designs through a rigorous observer program this summer.

The discrepancy in distance fished from the shoreline between the sector agreement (3 miles) and the RIMF (1 mile) is one that can be explained by our desire to reduce worry about our presence among other user groups. During the process it was apparent that we were perceived as a threat and we thought that if we distanced our directed fishery from other ongoing activities at this time it would lend itself to a better environment in which to learn. As difficult as it has been to manage the emotional components of this program, we remain determined to have the management strategy fairly evaluated. We simply thought that this would help.

In closing, I will strike the word target from language associated with the summer fishery within the area in question. That it is included is an oversight on my behalf, as it is, upon review, not appropriate, given existing federal law.

Respectfully

A handwritten signature in dark ink, reading "Christopher Brown". The signature is fluid and cursive, with a large loop for the "C" and a long, sweeping underline.

Christopher Brown

R.I Fluke Conservation Cooperative